

**REMARKS**

After entering the above amendments, claims 1-19, and 24-25 will be pending. Reconsideration and allowance of the current application are requested in light of the above-marked amendments and the foregoing remarks.

**Summary of Rejections.** The Office has rejected claims 1, 11, and 22 under 35 U.S.C. §112, second paragraph as allegedly failing to clearly and distinctly recite what the inventor considers to be the invention; claims 1-4, 6-13, 15-19, and 22 under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. 7,017,122 to Lee *et al.* (hereinafter "Lee"); and claims 5 and 14 under 35 U.S.C. §103(a) as allegedly being unpatentably obvious over Lee in view of U.S. Patent No. 6,177,933 to Young ("Young").

**Summary of Amendments.** With this amendment, independent claims 1 and 11 and dependent claims 3, 6, 10, 11, 12, 15, 19. New claims 24 and 25 has been added. Claim 24 depends from claim 1, and new claim 25 is independent. Previously presented independent claim 22 has been canceled. The amendments are to clarify the instantly claimed subject matter and to better distinguish the claimed subject matter from the prior art currently of record. The new claim is fully supported by the original specification, at least in paragraph [0026]. No new matter has been added with this amendment.

**Interview of October 6, 2009**

The Applicant's appreciatively acknowledge the interview granted by Examiner Ke to discuss this matter in an effort to further prosecution. The undersigned presented arguments regarding how the presented claims are distinguished from the Lee reference. The Examiner agreed to consider the arguments, but no agreement was reached.

**Rejections under 35 U.S.C. §112, Second Paragraph**

Claims 1, 11, and 22 stand rejected under 35 U.S.C. §112, second paragraph, because the Office alleges that the claims fail to clearly delineate the subject matter that the Inventor(s) intend to claim. Withdrawal of the pending rejection under 35 U.S.C. §112, second paragraph is respectfully requested based on the claim amendments presented above, which obviate the grounds for the rejection.

**Rejections under 35 U.S.C. §102**

Claims 1-4, 6-13, 15-19, and 22 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Lee. This rejection is respectfully traversed. To present a valid anticipation rejection under 35 U.S.C. §102, the Office must identify a single prior art reference in which “each and every element as set forth in the claim is found, either expressly or inherently described.” MPEP §2131 quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As discussed in greater detail below, Lee fails to disclose or to fairly suggest several limitations of the currently presented claims.

With the clarifying amendments presented above, independent claims 1 and 11 each recite the following limitation which is neither described nor fairly suggested in Lee or any other prior art of record in this matter:

a second two of the background regions that are concurrently displayed in the graphical user interface and that do overlap with each other, each of the second two of the background regions lacking a border that comprises a distinct graphical pattern differing from the graphic pattern assigned to the background region, such that a visual transition between the overlapping background regions is defined by a change between the graphic patterns assigned to each of the second two of the background regions.

This aspect of the instantly claimed subject matter is shown in FIG. 2, in which the different background regions are not bordered by a distinct graphical pattern that differs from the graphic pattern assigned to the background region. For example, the background regions 205, 210, 215 in FIG. 2 are not bordered by a line or other definite border with a different color or texture or color than the main body of the background region. The visual transition from one background region to a background region that the one background region overlaps is defined not by a line or other border additional border but instead by the change between the graphic patterns assigned to each of the overlapping background regions. Lee clearly does not disclose this feature as each of the regions of the graphical user interface are divided by border regions having a different graphical pattern than the region itself (see for example solid lines in FIG. 4 and FIG. 6 of Lee and 3-dimensional relief in FIG. 6 of Lee).

The independent claims each further recite that graphical structures representing related objects are concurrently displayed in two different background regions that do not overlap. Lee does not disclosed this feature.

Lee also does not properly describe or fairly suggest the feature that each relationship in the arrangement is assigned a graphic pattern that is distinct from each other relationship in the arrangement. The Office has pointed to col. 3, lines 40-65 of Lee to support the assertion that Lee discloses this feature. However, while Lee does describe the use of different graphic patterns (i.e. colors), these graphic patterns are not assigned to each relationship in a hierarchy in a manner that each relationship is assigned a different graphic pattern. In contrast, the same graphic pattern (color) is used for multiple different relationships depending on which selection a user makes in the on-screen menu. As described in the cited passage of Lee in reference to FIG. 4, the red color is used to denote the current selection by the user while blue is used to denote the path used to reach

the current point in the menu. This feature of Lee is totally inconsistent with the currently claimed subject matter. In fact, as argued previously, modifying Lee in a manner necessary to create the current subject matter would impermissibly change the principle of operation of Lee because each item in the on-screen menu would remain the same color. In such a system, it would therefore be impossible to indicate the menu path used to reach the current selection or to indicate which item is the current selection.

New claim 25 is presented to recite subject matter that is believed to distinguish over Lee based on the discussion at the interview of October 6, 2009.

For at least these reasons, withdrawal of the pending rejection under 35 U.S.C. §102 is respectfully requested.

### **Rejections under 35 U.S.C. §103**

Claims 5 and 14 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentably obvious over Lee in view of Young. This rejection is respectfully traversed.

All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Thus, if the cited references fail to disclose or at least fairly suggest each specific and explicit limitation of the claimed subject matter, the Office can present a valid *prima facie* case for obviousness under 35 U.S.C. §103 only by presenting a convincing line of reasoning as to why one of ordinary skill in the art at the time of conception of the instantly claimed subject matter would have found the claimed invention to have been obvious in light of the teachings of the references. See *e.g.* MPEP §706.02(j) citing *Ex Parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

As noted above, Lee fails to describe or to fairly suggest several features of the independent claims. Young fails to remedy these deficiencies, and the Office has not provided the required

convincing line of reasoning why the instantly claimed subject matter would have been obvious despite this deficiency in the prior art disclosures. A *prima facie* case for obviousness has therefore not been established and the claims as currently presented should be in condition for allowance.

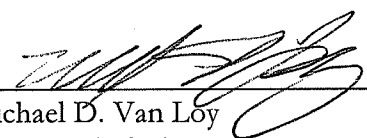
**CONCLUSION**

On the basis of the foregoing amendments, the pending claims are in condition for allowance. It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

Applicant is concurrently filing herewith a Petition for a two-month extension of time with the requisite fee. Authorization for a credit-card payment of the filing fees mentioned above is submitted herewith. No additional fees are believed to be due, however the Commissioner is authorized to charge any additional fees or credit overpayments to Deposit Account No. 50-0311, reference No. 34874-068/2003P00059US01. If there are any questions regarding this reply, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

Date: October 22, 2009

  
\_\_\_\_\_  
Michael D. Van Loy  
Reg. No. 52,315

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.  
3580 Carmel Mountain Road, Suite 300  
San Diego, CA 92130  
**Customer No. 64280**  
Tel.: 858/314-1559  
Fax: 858/314-1501